

THE SENATE

S.B. NO.

2045

TWENTY-FIFTH LEGISLATURE, 2010

S.D. 1

STATE OF HAWAII

H.D. 1

C.D. 1

A BILL FOR AN ACT

RELATING TO CRIME.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 707, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . SEXUAL HUMAN TRAFFICKING

§707-A Definitions. For purposes of this part:

"Advances", with respect to prostitution or sexually-explicit activity, occurs if a person, acting other than a prostitute or sexually-explicit activity performer, knowingly causes or aids a person to commit or engage in prostitution or sexually-explicit activity; procures or solicits patrons for prostitution or sexually-explicit activity; provides persons for prostitution or sexually-explicit activity purposes; permits premises to be regularly used for prostitution or sexually-explicit activity purposes; operates or assists in the operation of a house of prostitution or a prostitution or sexually-explicit activity enterprise; or engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution or sexually-explicit activity.

"Coercion" means to use or threaten to use any form of domination, restraint, or control for the purpose of causing an individual to engage in or remain in prostitution or sexually-explicit activity, as applicable, or to relinquish earnings derived from prostitution or sexually-explicit activity, as applicable. Coercion exists if the totality of the circumstances establish the existence of domination, restraint, or control that would have the reasonably foreseeable effect of causing an individual to engage in or remain in prostitution or sexually-explicit activity, as applicable, or to relinquish earnings derived therefrom.

"Enticement" includes the use of a computer or any other electronic device to intentionally or

knowingly communicate with another person, with the intent to promote or facilitate the trafficking of the other person under this part.

"Fraud" means making material false statements, misstatements, or omissions to induce or maintain the person to engage or continue to engage in prostitution or a sexually-explicit activity, as applicable.

"Maintain" means to secure continued performance of prostitution or sexually-explicit activity regardless of any initial agreement on the part of the trafficked person to perform such prostitution or sexually-explicit activity.

"Profits" with respect to prostitution or sexually-explicit activity, as applicable, means, if, acting other than as a prostitute or sexually-explicit activity performer, receiving compensation for personally-rendered prostitution or sexually-explicit activity services, as applicable, the person accepts or receives money or other property, in any form or manner, pursuant to an agreement or understanding with any other person whereby the person participates or is to participate in the proceeds of prostitution or sexually-explicit activity, as applicable.

"Prostituted person" means a person who is aided or caused to commit or engage in prostitution or sexually-explicit activity.

"Prostitution" means the activity of engaging in, or agreeing or offering to engage in, sexual conduct with another person for a fee.

"Sexual conduct" means the conduct defined in section 712-1200(2).

"Sexually-explicit activity" means engaging in activity as an erotic or nude massager or exotic or nude dancer, as defined by section 712-1210, or in the production of child pornography, as defined in section 707-750.

"Transport" means to move any distance, however slight, and shall not require proof of any specific minimum distance.

§707-B Sexual human trafficking in the first degree. (1) A person commits the offense of sexual human trafficking in the first degree if the person knowingly:

(a) Advances or profits from prostitution or sexually-explicit activity through any business, enterprise, or activity involving the prostitution or sexually-explicit activity of one or more prostituted persons under the age of eighteen that is established, conducts activities, or engages in conduct for the purpose of advancing or profiting from the prostitution or sexually-explicit activity;

(b) Which prostitution or sexually-explicit activity by the prostituted persons is obtained or maintained through enticement, fraud, or coercion; and

(c) The person, either alone or in association with others:

(i) Maintains, manages, supervises, or controls; and

(ii) Transports,

any prostituted person.

(2) Sexual human trafficking in the first degree is a class A felony.

§707-C Sexual human trafficking in the second degree. (1) A person commits the offense of sexual human trafficking in the second degree if the person knowingly:

(a) Advances or profits from prostitution or sexually-explicit activity through any business, enterprise, or activity involving the prostitution or sexually-explicit activity of one or more prostituted persons eighteen years old or older that is established, conducts activities, or engages in conduct for the

purpose of advancing or profiting from the prostitution or sexually-explicit activity;

(b) Which prostitution or sexually-explicit activity by the prostituted persons is obtained or maintained through enticement, fraud, or coercion; and

(c) The person, either alone or in association with others:

(i) Maintains, manages, supervises, or controls; and

(ii) Transports,

any prostituted person.

(2) Sexual human trafficking in the second degree is a class B felony."

SECTION 2. Section 28-101, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The attorney general shall establish a statewide witness program through which the attorney general may fund or provide for the security and protection of a government witness or a potential government witness in an official proceeding or investigation where the attorney general determines that an offense such as those described in [sections] section 710-1071 (intimidating a witness), 710-1072 (tampering with a witness), or 710-1072.2 (retaliating against a witness) is likely to be committed or which involves great public interest. The attorney general may also fund or provide for the security and protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered. In determining whether such security and protection or funds are to be provided, the attorney general shall give greatest priority to official proceedings or investigations involving pending or potential organized crime, racketeering activity, sexual human trafficking, or career criminal prosecutions."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2010.

Report Title:

Human Trafficking Offenses; Crime

Description:

Establishes class A and B felony sexual human trafficking offenses. Includes sexual human trafficking offenses in the official proceedings or investigations that are to be given greatest priority for purposes of witness protection programs. (CD1)

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